

REMARKS

Claims 7-24 and 29-33 were pending in this application. Claims 7-24 and 29-33 stand rejected under 35 U.S.C. § 103(a). Applicants have cancelled Claims 7-12 and 16-24. Therefore, claims 13-15 and 29-33 are now pending. Applicants request reconsideration of Claims 13-15 and 29-33 in view of the following remarks.

Rejection of Claims 7-12 and 16-24

The Office Action rejected Claims 7-12 and 16-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,632,011 to Landfield (Landfield) and U.S. Patent No. 6,072,942 to Stockwell (Stockwell). Applicant disagrees with the Office Action that there is motivation to combine Landfield and Stockwell. Applicant further disagrees with the Office Action that the combination of Landfield and Stockwell discloses all elements of Claims 7-12 and 16-24. However, to expedite prosecution of the remaining claims, applicant has cancelled Claims 7-12 and 16-24.

Rejection of Claims 13-15 and 29-33

The Office Action rejected Claims 13-15 and 29-33 under 35 U.S.C. § 103(a) as being unpatentable over Landfield and Stockwell. Specifically, with respect to Claims 13, 14, and 29-33, the Office Action stated that the combination of Landfield and Stockwell fails to teach a method where filtering conditions reject all executable attachments that lack a digital signature (Claim 13), filtering based on validity of attached signatures (Claim 14) or filtering based on properties associated with such signature (Claims 29-33). However, the Office Action went on to state that official notice may be taken that the use of such filtering conditions are old and well known in the art. The Office Action also stated that it would be desirable to incorporate such filtering in Landfield and Stockton because rejection of such executable attachments would provide greater protection from malicious code such as computer viruses (Claims 13 and 14) or would provide greater fidelity in authentication and non-repudiation of an email message (Claims 29-33). As discussed above, Applicants disagree with the Office Action that there is motivation to combine Landfield and Stockwell or that the combination discloses all elements of Claims 7-12 and Claims 16-24. Additionally, Applicants disagree with the Office Action that filtering email messages by reference to digital signatures, which are attached to messages, is old and well known.

It was not appropriate for the Office Action to take official notice that filtering by reference to signatures is old and well known since such facts are not capable of instant and unquestionable demonstration. Official notice unsupported by documentary evidence should only be taken where the facts asserted to be well-known, or to be common knowledge in the art, are capable of instant and unquestionable demonstration as being well-known. *In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970). Additionally, if official notice is taken of a fact, unsupported by documentary evidence, the basis for such reasoning must be set forth explicitly by providing specific factual findings predicated on sound technical and scientific reasoning to support the conclusion of common knowledge. *In re Soli*, 317 F.2d 941, 946 (CCPA 1963). The applicant should be presented with the explicit basis on which the Office Action regards the matter as subject to official notice. As discussed above, in rejecting Claims 13-15 and 29-33, the Office Action took official notice that filtering by reference to signatures is old and well known. Applicants submit that the assertion that filtering by reference to signatures is old and well known is not capable of instant and unquestionable demonstration. Hence, applicants request that the Office Action produce authority for the statement that filtering by reference to signatures is old and well known. Furthermore, the Office Action did not provide an explicit basis on which the Office Action regards the matter as subject to official notice. In fact, such facts are not old or well-known but rather patentable innovations which for part of the teachings of the present invention. Accordingly, Claims 13-15 and 29-33 are allowable over the combination of Landfield and Stockwell for at least this reason alone.

SUMMARY

Claims 13-15 and 29-33 are now pending in this application. Applicants have presented arguments in support of allowance of Claims 13-15 and 29-33. Applicants respectfully submit that this application is now believed to be in a condition for allowance with Claims 13-15 and 29-33.

If the Examiner wishes to direct any questions concerning this application to the undersigned Applicants' representative, please call the number indicated below.

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Respectfully submitted,



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